

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 05-80025
Hon. Victoria A. Roberts

KHAYYAM WILSON,

Defendant.

ORDER DENYING MOTION FOR WRITTEN FINDINGS

This matter is before the Court on Defendant's request for written findings pursuant to 18 USC §3142(i).

The Defendant, Khayyam Wilson, was ordered to be detained pending trial on November 15, 2005 by Magistrate Judge Donald A. Scheer. Defendant is accused of armed bank robbery and premeditated murder. On January 20, 2006, Defendant filed a motion to vacate the detention order. Following a hearing held on January 30, 2006, the motion to vacate the detention order was denied.

At the hearing, detailed findings of fact and reasons for denial of the motion to vacate were placed on the record. A written order was not filed. Defendant alleges the Court was required by §3142(i) to make written findings of fact accompanied by a written statement of the reasons for the detention. Section 3142(i) provides:

(i) Contents of detention order. - In a detention order issued under subsection (e) of this section, the judicial officer shall -

(1) include written findings of fact and a written statement of the reasons for the detention;

Section 3142(e) provides that, upon certain findings, pretrial detention shall be ordered.

Magistrate Scheer's written order contains findings of fact and specific reasons for detention. [Doc. 84]. The order contains the specific findings that were made and specific statements of the reasons for detention.

The requirement of §3142(i) was satisfied by Magistrate Scheer's written order for pretrial detention. The statute requires that a *judicial officer* issue written findings. A magistrate's written findings satisfy §3142(i). *U.S. v. Koenig*, 912 F.2d 1190, 1192 (9th Cir. 1990); *U.S. v. Vortis*, 785 F.2d 327, 328 (D.C.Cir. 1986); and *U.S. v. Maull*, 773 F.2d 1479, 1482 (8th Cir. 1985). See also *U.S. v. Thornton*, 787 F.2d 594, *1, (6th Cir. 1986)(unpublished)("[the magistrate], a judicial officer, made written findings of fact and stated the reasons for detention pursuant to §3412(i). The district court, on review, made further oral findings setting out [its] reasons for ratifying the action of the magistrate with respect to bail. Section 3142(i) and Rule 9(a) of the Federal Rules of Criminal Procedure impose no requirement beyond what was done in this case.").

This Court held a review hearing and made its own findings of fact and reasons for detention. It outlined the crime Defendant was allegedly involved in; that Defendant faces the death penalty; that he was alleged to have carried a handgun during commission of the crime; and, that Defendant drove the getaway car. The Court also considered the weight of the evidence against Defendant, based on the Government's proffer. While the Court found that Defendant's history and characteristics as well as no evidence that he posed a danger to the community weighed in favor of release, it

nonetheless ordered continued detention based on the nature and circumstances of the offense charged and the weight of the evidence.

These findings were placed on the record and a written transcript is available. These findings, coupled with the Magistrate's written findings, are sufficient. Therefore, the Court **DENIES** Defendant's Motion and Incorporated Memorandum In Support Of Request For Written Findings.

IT IS SO ORDERED.

/s/ Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: March 3, 2006

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on March 3, 2006.

s/Linda Vertriest
Deputy Clerk